

MONTANA LEGISLATIVE HISTORY

Chapter _____ 19____ - Bill Died

Bill H 296 S _____ Original bill & history ☒ C

H. Committee on Labour & Employment S. Committee on Labour & Employment

Hearing Date(s) 2-2 _____ C

Hearing Date(s) _____ C

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Date Out _____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HB 296 INTRODUCED BY DRISCOLL
REQUIRE OUT-OF-STATE EMPLOYERS ENGAGED IN CONSTRUCTION
INDUSTRY TO OBTAIN WORKERS' COMPENSATION COVERAGE FOR
THEIR OUT-OF-STATE EMPLOYEES UNDER PROVISIONS OF MONTANA
LAW

1/21	INTRODUCED		
1/21	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/21	FIRST READING		
2/02	HEARING		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	94	5
2/16	3RD READING PASSED	96	2
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/10	TABLED IN COMMITTEE		

HB 297 INTRODUCED BY MCCARTHY
REMOVE CAPITAL GAIN EXCLUSION FROM TRUST AND ESTATE TAXABLE
INCOME TO MAKE MONTANA INDIVIDUAL AND TRUST TAXABLE INCOME
STATUTES CONSISTENT
BY REQUEST OF DEPARTMENT OF REVENUE

1/21	INTRODUCED		
1/21	REFERRED TO TAXATION		
1/21	FIRST READING		
1/21	FISCAL NOTE REQUESTED		
1/25	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/27	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED		
1/30	2ND READING PASSED	81	16
2/03	3RD READING PASSED	88	11
	TRANSMITTED TO SENATE		
2/04	FIRST READING		
2/04	REFERRED TO TAXATION		
2/16	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/02	2ND READING CONCURRED	49	0
3/03	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/10	SIGNED BY SPEAKER		
3/12	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 103		
	EFFECTIVE DATE: 10/01/93		

HB 298 INTRODUCED BY BIRD
EXTEND APPEAL TIME FROM STATE TAX APPEAL BOARD INVOLVING
INDIVIDUAL INCOME TAX
BY REQUEST OF DEPARTMENT OF REVENUE

1/21	INTRODUCED
1/21	REFERRED TO TAXATION
1/21	FIRST READING
1/21	FISCAL NOTE REQUESTED
1/25	FISCAL NOTE RECEIVED
1/25	FISCAL NOTE PRINTED

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House BILL NO. 296
INTRODUCED BY Druid
A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING OUT-OF-STATE EMPLOYERS ENGAGED IN THE CONSTRUCTION INDUSTRY TO OBTAIN WORKERS' COMPENSATION COVERAGE FOR THEIR OUT-OF-STATE EMPLOYEES UNDER THE PROVISIONS OF MONTANA LAW; AMENDING SECTION 39-71-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-402, MCA, is amended to read:

"39-71-402. Extraterritorial application and reciprocity ----exception. (1) If a worker employed in this state who is subject to the provisions of this chapter temporarily leaves the state incidental to that employment and receives an injury arising out of and in the course of such employment, the provisions of this chapter shall apply to such the worker as though he the worker were injured within this state.

(2) If Except as provided in subsection (5), if a worker from another state and his the worker's employer from another state are temporarily engaged in work within this state, this chapter shall does not apply to them:

(a) if the employer and employee are bound by the

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provisions of the workers' compensation law or similar law of such other state which applies to them while they are in the state of Montana; and

(b) if the Workers' Compensation Act of this state is recognized and given effect as the exclusive remedy for workers employed in this state who are injured while temporarily employed in such the other state.

(3) A certificate from an authorized officer of the workers' compensation department or similar agency of another state certifying that an employer of such the other state is bound by the Workers' Compensation Act of the state and that its act will be applied to employees of the employer while in the state of Montana shall--be is prima facie evidence of the application of the workers' compensation law of the certifying state.

(4) The department may, with the approval of the governor, enter into agreements with workers' compensation agencies of other states for the purpose of promulgating regulations not inconsistent with the provisions of this chapter to carry out the extraterritorial application of the workers' compensation laws of the agreeing states.

(5) The--provisions-of-this-section-do-not-apply-to-the construction-industry-as--defined--in--39-71-116- Employers from another state that are engaged in the construction industry, as defined in 39-71-116, and that employ workers

1 ~~from another state shall obtain coverage for those workers~~
2 ~~under the provisions of this chapter."~~

3 ~~NEW SECTION. Section 2. Effective date. [This act] is~~
4 ~~effective on passage and approval.~~

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Tom Nelson, on February 4, 1993, at
3:10 p.m.

ROLL CALL

Members Present:

Rep. Tom Nelson, Chair (R)
Rep. Gary Feland, Vice Chair (R)
Rep. Vicki Cocchiarella (D)
Rep. Jerry Driscoll (D)
Rep. Alvin Ellis (R)
Rep. Pat Galvin (D)
Rep. Sonny Hanson (R)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carolyn Squires (D)
Rep. Bill Tash (R)
Rep. Rolph Tunby (R)
Rep. Carley Tuss (D)
Rep. Tim Whalen (D)

Members Excused: Rep. Benedict

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Cherri Schmaus, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 287, HB 259 & SB 116
Executive Action: SB 116, HB 261, HB 296

HEARING ON HB 259

Opening Statement by Sponsor:

REP. DORE SCHWINDEN, HD 20, Roosevelt, sponsor, opened on HB 259 by handing out amendments (EXHIBITS #1 & #2). He stated that this bill just states that if an employee is injured while recreating, he/she is not covered. He stated that it is not fair to pay someone Workers' Compensation if they are not on duty when injured.

SB 116 was then closed.

EXECUTIVE ACTION ON SB 116

Motion: REP. WHALEN MOVED SB 116 MOVED SB 116 DO BE CONCURRED IN.

Discussion:

REP. SIMON stated that he was concerned about the effective date, but he still is in support of SB 116. He moved the amendments.

Motion/Vote: All of the committee members called for the question. The motion to DO BE CONCURRED IN AS AMENDED CARRIED unanimously. REP. BENEDICT agreed to carry the bill on the House floor.

HEARING ON HB 332

Informational Testimony:

George Wood spoke to the committee at the request of REP. SQUIRES. He stated that the information, as discussed by the pros and cons, about continuing with workers compensation only deals with the Vo-Techs. He stated that Vo-Tech students are entirely different than other university students. Vo-Tech students usually have a part-time job. Besides, \$60,000 for Workers' Compensation, couldn't buy much insurance.

REP. SQUIRES asked how this bill deals with Plan 2 insurers.

George Wood stated that he feels this is backwards. He said that all employers want to stay out of TORT liability.

REP. DRISCOLL stated that the amount paid in is \$5.94 on \$80 per month and \$4.50 per month premium from each student.

REP. MILLS told George Wood that he is concerned with the part-time employees.

George Wood stated that this is not a worry of part-time employees.

EXECUTIVE ACTION ON HB 296

Motion: REP. DRISCOLL MOVED HB 296 DO PASS WITHOUT THE AMENDMENTS..

Discussion: REP. DRISCOLL handed out amendments and referred to

page 3, subsection (6)(c).

REP. MILLS asked what the amendments do?

REP. DRISCOLL stated that it is the specialty contractors that are getting killed. If the construction lasts longer than six months the construction firm must already get Montana benefits. This bill will just make those less than six months get Montana benefits also.

REP. ELLIS MOVED THE AMENDMENTS. The question was called on the amendments. The motion carried unanimously. The amendments were adopted.

REP. FELAND stated that a driller must pay Montana rates, even if that particular company's rates go up to \$6 per day.

REP. DRISCOLL stated that this bill excludes oil and timber. He referred back to 1987 and some register that he remembered seeing.

REP. PAVLOVICH stated that he supports the bill because Montana construction firms can't compete.

REP. MILLS stated that he supports the bill.

REP. SIMON asked if this bill applies only to contracts that are signed after the passage of the bill. He was assured that this is the intent of the effective date.

Motion/Vote:

REP. DRISCOLL MOVED HB 296 DO PASS AS AMENDED. The motion CARRIED with a vote of 14 to 2.

EXECUTIVE ACTION ON HB 261

Motion: REP. WHALEN MOVED HB 261 DO PASS.

Discussion:

REP. MILLS stated that the public fund is all paid by the employer and that it is only public as we spend it. He stated that he does not like to spend for someone who leaves the job.

Motion/Vote: REP. HANSON MOVED TO TABLE HB 261. The motion to TABLE CARRIED 9 to 7.

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL

DATE _____

2/4/93

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 5, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Labor report that House Bill 296 (first reading copy -- white) do pass as amended.

Signed: _____
Tom Nelson, Chair

And, that such amendments read:

1. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS 39-71-118 AND"

2. Page 3, line 3.

Following: line 2

Insert: "Section 2. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, ~~workman~~, and volunteer firefighter defined. (1) The terms "employee", ~~"workman"~~, or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for ~~such~~ the corporations for pay. Casual employees as defined by 39-71-116 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-303 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However,

Committee Vote:

Yes 77, No 2.

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APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 296

INTRODUCED BY DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING OUT-OF-STATE EMPLOYERS ENGAGED IN THE CONSTRUCTION INDUSTRY TO OBTAIN WORKERS' COMPENSATION COVERAGE FOR THEIR OUT-OF-STATE EMPLOYERS UNDER THE PROVISIONS OF MONTANA LAW; AMENDING SECTION SECTIONS 39-71-118 AND 39-71-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-402, MCA, is amended to read:

"39-71-402. Extraterritorial application and reciprocity ----exception. (1) If a worker employed in this state who is subject to the provisions of this chapter temporarily leaves the state incidental to that employment and receives an injury arising out of and in the course of such employment, the provisions of this chapter shall apply to such the worker as though he the worker were injured within this state.

(2) ~~If~~ Except as provided in subsection (5), if a worker from another state and his the worker's employer from another state are temporarily engaged in work within this state, this chapter shall does not apply to them:

(a) if the employer and employee are bound by the

provisions of the workers' compensation law or similar law of such other state which applies to them while they are in the state of Montana; and

(b) if the Workers' Compensation Act of this state is recognized and given effect as the exclusive remedy for workers employed in this state who are injured while temporarily employed in such the other state.

(3) A certificate from an authorized officer of the workers' compensation department or similar agency of another state certifying that an employer of such the other state is bound by the Workers' Compensation Act of the state and that its act will be applied to employees of the employer while in the state of Montana shall--be is prima facie evidence of the application of the workers' compensation law of the certifying state.

(4) The department may, with the approval of the governor, enter into agreements with workers' compensation agencies of other states for the purpose of promulgating regulations not inconsistent with the provisions of this chapter to carry out the extraterritorial application of the workers' compensation laws of the agreeing states.

(5) ~~The--provisions-of-this-section-do-not-apply-to-the construction-industry-as--defined--in--39-71-116.~~ Employers from another state that are engaged in the construction industry, as defined in 39-71-116, and that employ workers

1 from another state shall obtain coverage for those workers
 2 under the provisions of this chapter."

3 **SECTION 2. SECTION 39-71-118, MCA, IS AMENDED TO READ:**

4 "39-71-118. Employee, worker, workman, and volunteer
 5 firefighter defined. (1) The terms "employee", "workman", or
 6 "worker" mean:

7 (a) each person in this state, including a contractor
 8 other than an independent contractor, who is in the service
 9 of an employer, as defined by 39-71-117, under any
 10 appointment or contract of hire, expressed or implied, oral
 11 or written. The terms include aliens and minors, whether
 12 lawfully or unlawfully employed, and all of the elected and
 13 appointed paid public officers and officers and members of
 14 boards of directors of quasi-public or private corporations
 15 while rendering actual service for such the corporations for
 16 pay. Casual employees as defined by 39-71-116 are included
 17 as employees if they are not otherwise covered by workers'
 18 compensation and if an employer has elected to be bound by
 19 the provisions of the compensation law for these casual
 20 employments, as provided in 39-71-401(2). Household or
 21 domestic service is excluded.

22 (b) a recipient of general relief who is performing
 23 work for a county of this state under the provisions of
 24 53-3-303 through 53-3-305 and any juvenile performing work
 25 under authorization of a district court judge in a

1 delinquency prevention or rehabilitation program;

2 (c) a person receiving on-the-job vocational
 3 rehabilitation training or other on-the-job training under a
 4 state or federal vocational training program, whether or not
 5 under an appointment or contract of hire with an employer as
 6 defined in this chapter and whether or not receiving payment
 7 from a third party. However, this subsection does not apply
 8 to students enrolled in vocational training programs as
 9 outlined above while they are on the premises of a public
 10 school or community college.

11 (d) students enrolled and in attendance in programs of
 12 vocational-technical education at designated
 13 vocational-technical centers;

14 (e) an airman or other person employed as a volunteer
 15 under 67-2-105; or

16 (f) a person, other than a juvenile as defined in
 17 subsection (1)(b), performing community service for a
 18 nonprofit organization or association or for a federal,
 19 state, or local government entity under a court order, or an
 20 order from a hearings officer as a result of a probation or
 21 parole violation, whether or not under appointment or
 22 contract of hire with an employer as defined in this chapter
 23 and whether or not receiving payment from a third party. For
 24 a person covered by the definition in this subsection (f):

25 (i) compensation benefits must be limited to medical

1 expenses pursuant to 39-71-704 and an impairment award
 2 pursuant to 39-71-703 that is based upon the minimum wage
 3 established under Title 39, chapter 3, part 4, for a
 4 full-time employee at the time of the injury; and

5 (ii) premiums must be paid by the employer, as defined
 6 in 39-71-117(3), and must be based upon the minimum wage
 7 established under Title 39, chapter 3, part 4, for the
 8 number of hours of community service required under the
 9 order from the court or hearings officer.

10 (2) The term "volunteer firefighter" means a
 11 firefighter who is an enrolled and active member of a fire
 12 company organized and funded by a county, a rural fire
 13 district, or a fire service area.

14 (3) (a) If the employer is a partnership or sole
 15 proprietorship, such the employer may elect to include as an
 16 employee within the provisions of this chapter any member of
 17 such the partnership or the owner of the sole proprietorship
 18 devoting full time to the partnership or proprietorship
 19 business.

20 (b) In the event of such an election, the employer must
 21 serve upon the employer's insurer written notice naming the
 22 partners or sole proprietor to be covered and stating the
 23 level of compensation coverage desired by electing the
 24 amount of wages to be reported, subject to the limitations
 25 in subsection (3)(d). A partner or sole proprietor is not

1 considered an employee within this chapter until such notice
 2 has been given.

3 (c) A change in elected wages must be in writing and is
 4 effective at the start of the next quarter following
 5 notification.

6 (d) All weekly compensation benefits must be based on
 7 the amount of elected wages, subject to the minimum and
 8 maximum limitations of this subsection. For premium
 9 ratemaking and for the determination of weekly wage for
 10 weekly compensation benefits, the electing employer may
 11 elect not less than \$900 a month and not more than 1 1/2
 12 times the average weekly wage as defined in this chapter.

13 (4) The trustees of a rural fire district, a county
 14 governing body providing rural fire protection, or the
 15 county commissioners or trustees for a fire service area may
 16 elect to include as an employee within the provisions of
 17 this chapter any volunteer firefighter. A volunteer
 18 firefighter who receives workers' compensation coverage
 19 under this section may not receive disability benefits under
 20 Title 19, chapter 12.

21 (5) An employee, ~~workman~~ or worker in this state whose
 22 services are furnished by a person, association, contractor,
 23 firm, or corporation, other than a temporary service
 24 contractor, to an employer as defined in 39-71-117 is
 25 presumed to be under the control and employment of the

1 employer. This presumption may be rebutted as provided in
2 39-71-117(3).

3 (6) For purposes of this section, an "employee,
4 workman, or worker in this state" means:

5 (a) a resident of Montana who is employed by an
6 employer and whose employment duties are primarily carried
7 out or controlled within this state; or

8 (b) a nonresident of Montana whose principal employment
9 duties are conducted within this state on a regular basis
10 for an employer; or

11 (c) a nonresident employee of an employer from another
12 state engaged in the construction industry, as defined in
13 39-71-116, within this state."

14 NEW SECTION. SECTION 3. SAVING CLAUSE. [THIS ACT] DOES
15 NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT
16 WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE
17 EFFECTIVE DATE OF THIS ACT].

18 NEW SECTION. Section 4. Effective date. [This act] is
19 effective on passage and approval.

-End-

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Tom Towe, on March 9, 1993, at 3:03 PM

ROLL CALL

Members Present:

Sen. Tom Towe, Chair (D)
Sen. Bill Wilson, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Chet Blaylock (D)
Sen. Jim Burnett (R)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)

Members Excused: None.

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Kelsey Chapman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 208, HB 445
Executive Action: HB 445, HB 296, HB 208, HB 259, HB 472,
HB 526, HB 287.

HEARING ON HB 445

Opening Statement by Sponsor:

Representative Scott McCulloch, House District 96, told the Committee HB 445 would allow for individuals to attend adult basic education classes while receiving unemployment insurance. Currently the MCA 39-512-37 prohibits any person receiving unemployment from attending any education institution. HB 445 would allow an exemption of this law so an adult could continue or start an adult basic education class while laid-off, and still receive unemployment benefits. The individual is still required to look for work and return to work when a job becomes available. Representative McCulloch told the Committee this would allow for one to better the chances of returning to work. The fiscal impact is minimal, and would cause no drain on the unemployment insurance fund. Representative McCulloch read a statement from

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

March 9, 1993

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EXECUTIVE ACTION ON HB 296

Discussion:

Representative Driscoll asked SB 296 be TABLED.

Motion/Vote:

Senator Lynch moved HB 296 be TABLED. The Motion CARRIED UNANIMOUSLY. Senator Wilson voted YES by proxy.

Senator Lynch was assigned to carry HB 445.

HEARING ON HB 208

Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, told the Committee HB 208 dealt with the Self Insurers' Guaranty Fund. There are presently 55 self-insurers in Montana who pay into the Self Insurers' Guaranty Fund. The fund guarantees if one of the self-insurers go broke, the fund will pay. HB 208 would require that a deposit made by an employer to the fund would be in an amount agreed to by the fund. The Bill would not include claims entered prior to July 1, 1989, when the fund was not in existence. The Montana Department of Labor and Industry will be able to demand deposits on that money without concurrence of the fund. HB 208 provides that if one of the self-insurers goes broke, the other 54 will have to pay through the fund. This limits the liability of the state for the self-insurers.

Proponents' Testimony:

George Wood, Executive Secretary, Montana Self Insurers' Association, and Montana Self Insurers' Guaranty Fund, told the Committee the money involved in the event of bankruptcy of one of the members would come from the rest of the members. Of the self-insurers in Montana, the schools, counties, and cities do not belong to the fund, and are not required to by statute. The other self-insurers would have to pay the claims of any bankrupt self-insurers.

Bill Egan, Montana Conference of Electrical Workers, rose in support of HB 208.

Opponents' Testimony:

None.

Informational Testimony:

None.